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Monday, February 23, 2015

VIA Email

The Honorable Bob Goodlatte, Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers, Jr., Ranking Member
House Committee on the Judiciary
B-351 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom Marino, Chairman
Subcommittee on Regulatory Reform, Commercial and Antitrust Law
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Henry C. "Hank" Johnson, Ranking Member
Subcommittee on Regulatory Reform, Commercial and Antitrust Law
House Committee on the Judiciary
B-351 Rayburn House Office Building
Washington, DC 20515

Re: HR 870

Dear Sirs:

I write to urge swift passage of HR 870, which would grant Puerto Rico the option to let its financially distressed municipalities restructure under chapter 9 of the Bankruptcy Code. This is the same option that all fifty states currently enjoy, and that the Commonwealth, as a self-governing entity under our Constitution, should also enjoy.

The reason for passing this bill is quite straightforward. As I wrote in a recent law review article:

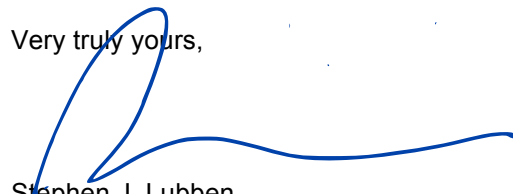
The logic behind excluding Puerto Rico from chapter 9, to the extent it ever did, no longer makes sense.¹

In particular, Puerto Rico presently faces an untenable situation with regard to its distressed public corporations. If the Commonwealth was fully sovereign, it could pass its own municipal bankruptcy law. On the other hand, if the Commonwealth was a state under our Constitution, it would have access to chapter 9. Instead, Puerto Rico is left in a kind of legal no man's land, seemingly unable to address the serious problems that its municipal entities face.

The Bankruptcy Code treats Puerto Rico as a state for all purposes save one. It is time to remove that singular exception, and allow the Commonwealth's municipalities to restructure their finances under a well-understood, long-standing system that bondholders throughout the country appreciate.

I hope the Committee and the House will advance this straightforward legislation. Please do not hesitate to contact me if I can be of further assistance.

Very truly yours,



Stephen J. Lubben

Harvey Washington Wiley Chair in Corporate Governance & Business Ethics

¹ Stephen J. Lubben, *Puerto Rico and the Bankruptcy Clause*, 88 Am. Bankr. L.J. 553, 578 (2014).